

COCHISE COUNTY PLANNING & ZONING COMMISSION MINUTES

Wednesday, August 14, 2013

REGULAR MEETING at 4:00 p.m.

The regular meeting of the Cochise County Planning & Zoning Commission was called to order at 4:00 p.m. by Chairman Lynch at the Cochise County Complex, 1415 Melody Lane, Building G, Bisbee, Arizona in the Board of Supervisors' Hearing Room.

Chairman Lynch admonished the public to turn off cell phones, use the speaker request forms provided, and to address the Commission from the podium using the microphone. He explained the time allotted to speakers when at the podium. He then explained the composition of the Commission, and indicated there were one Special Use request and Regulation docket on the Agenda. He explained the consequences of a potential tie vote and the process for approval and appeal.

ROLL CALL

Chairman Lynch noted the presence of a quorum and called the roll, asking the Commissioners to introduce themselves and indicate the respective District they represent; six Commissioners (Tim Cervantes, Jim Lynch, Jim Martzke, Carmen Miller, Ron Bemis, and Liza Weissler) indicated their presence. Staff members present included Beverly Wilson, Planning Director; Michael Turisk, Planning Manager; Keith Dennis, Planner II; Peter Gardner, Planner I; Rick Corley, Zoning Administrator and; Adam Ambrose, Civil Deputy County Attorney.

APPROVAL OF THE MINUTES

Motion: Approve the minutes of the July 10, 2013 meeting as presented.

Action: Approve **Moved by:** Mr. Bemis, **Seconded by:** Mr. Martzke

Vote: Motion passed (**Summary:** Yes = 6, No = 0, Abstain = 0)

Yes: Mr. Martzke, Chairman Lynch, Mr. Cervantes, Mr. Bemis, Ms. Miller, Ms. Weissler

No: 0

Abstain: 0

NEW BUSINESS

Item 1

PUBLIC HEARING -- Docket SU-13-12 (Collins): A Special Use request to use an existing guesthouse located at 10637 River Ridge Road in Palominas for a guest ranch land use. The Applicants are Kim Ratelle-Collins and Thomas Collins.

Chairman Lynch called for the Planning Director's report. Mr. Keith Dennis presented the docket, explaining the background of the request utilizing photos, maps, and other visual aids. Mr. Dennis explained that the request was to allow existing structures to be used as a guest-lodging establishment.

He explained how the proposed project and the existing site fit in with the Southern San Pedro Valley Area Plan. Mr. Dennis explained the access to the site and that the docket was transmitted to various agencies for comment. He also explained the correspondence that Staff had received regarding the proposal. Mr. Dennis also explained the Modification requested by the Applicants, as well as the public response to the Special Use request. He closed by listing factors in favor of and against approval and invited questions from the Commission.

Mr. Lynch invited the Applicant to make a statement. Mr. Tom Collins spoke, explaining the location of the property and the nature of the request. He explained the existing structures and how they would be used. He closed by inviting questions from the Commission. Mr. Lynch asked about the cowboy music and poetry mentioned in the application. Mr. Collins explained that they may occasionally play acoustic music outside in a similar manner that they currently do on the property.

Mr. Lynch opened the Public Hearing and asked if there were any members of the public wishing to speak in favor or in opposition to the project. There being none, Mr. Lynch then closed the Public Hearing and invited discussion from Commissioners. Mr. Bemis explained his support for the request as it blended well with the area. Mr. Lynch noted that the Commission had read the letters in opposition and were familiar with the concerns listed therein.

Mr. Lynch then called for the Planning Director's summary and recommendation. Mr. Dennis recommended Conditional Approval and explained the Conditions and Modification requested by Staff. Mr. Lynch called for a motion. Mr. Martzke made a motion for recommending Approval of the Special Use with the Conditions and Modification given by Staff. Mr. Bemis seconded the motion and Mr. Lynch asked for discussion. Mr. Martzke and Mr. Bemis expressed their support for the project. Mr. Lynch called for a vote. The motion passed 6-0.

Motion: Motioned to approve the Special Use request with Conditions and Modifications recommended by Staff.

Action: Approve with Conditions and Modifications **Moved by:** Mr. Martzke **Seconded by:** Mr. Bemis

Vote: Motion passed (**Summary:** Yes = 6, No = 0, Abstain = 0)

Yes: Mr. Martzke, Chairman Lynch, Mr. Cervantes, Ms. Miller, Mr. Bemis, and Ms. Weissler.

No: 0

Abstain: 0

Item 2

PUBLIC HEARING -- Docket R-13-01 (Cochise County Planning and Zoning Commission): A proposed revision of the 2008 version of the County Zoning Regulations. The revision is intended to simplify and clarify to provide a better understanding of the regulations; to provide more flexibility in the administration of the regulations; and to bring the regulations into conformance with the County Comprehensive Plan and Arizona Revised Statutes.

Chairman Lynch explained the docket and read a portion of an email he had received from a member of the public and had forwarded to the rest of the Commission. Mr. Lynch declined to read the entire letter into the record and asked Staff to include the entire letter in the minutes. (The letter may be found in its entirety as an addendum to this document). Mr. Lynch did read a portion of the letter regarding the previously established Building Code Advisory and Appeals Board and the Board's relationship with the Zoning Regulations. He then explained the law and codes regarding the Board, including the various iterations required by individual codes. Mr. Lynch also noted that the Board does not interact with the Zoning Regulations under law or code and explained that it was the Commission's duty to review the Zoning Regulations. Mr. Lynch then called for the Planning Director's report. Planning Director, Ms. Beverly Wilson presented the docket, explaining the purpose and justification of the update. She also explained statutory issues driving the update. She then noted that the Commission had seen the document several times before, and noted the major changes in each article, including new definitions, dropping references to specific sections of state law or the zoning regulations, changes to medical marijuana, changes to administration, clarifications of site development standards, and a major rewrite of the sign regulations to bring them into line with Constitutional law. She finished by inviting questions from the Commission.

Mr. Bemis asked about Section 307 regarding items not permitted being prohibited and likened it to being considered guilty until proven innocent. Ms. Wilson noted that the language in question was not a change and is in the currently adopted regulations. Mr. Bemis acknowledged that and stated "he felt you needed the blessing of the king before you did anything" and felt it was a burden on the public to be required to know the regulations and that it penalized people who were trying to move ahead with "novel, new ideas." Mr. Ambrose asked Mr. Bemis how it could be modified and compared his suggestion to "being not responsible for any law you didn't know about." He explained that people are responsible for knowing the law. Mr. Bemis stated that he would like to see the section in question dropped from the regulations. Mr. Lynch asked if the section was a change. Ms. Wilson reiterated that it was not and the language in question was part of the current regulations. Ms. Weissler stated that she felt Mr. Bemis would prefer the language that would instead permit anything not prohibited. Mr. Bemis concurred that this was his desire, and Ms. Weissler stated that she felt that this was not an appropriate change. Mr. Lynch requested the Commission to review the changes proposed rather than rewrite the regulations "on the fly" by discussing existing language. He reminded the Commission that their mandate was to review the changes and forward a recommendation to the Board of Supervisors. He reiterated that their mandate was not to propose changes at this point, and if Commissioners would like to introduce new changes they should be raised as a separate docket in the future. Mr. Bemis then asked Staff for clarification that the current proposed changes did not include any proposed additional water conservation regulations in the Sierra Vista Sub- watershed. Ms. Wilson stated that all such proposed changes had been removed.

Mr. Martzke mentioned that he did not like referring to general sections of law and regulations through most of the regulations but referring to individual sections within the same article. He felt that this inconsistent. Ms. Wilson explained the rationale, but Mr. Martzke felt it did not clarify and argued for keeping exact references. He continued that he felt members of the public would not otherwise be able to find the appropriate sections. Mr. Martzke then asked about the definition of General Agriculture and the semantics of the definition of feeding animals.

Mr. Lynch asked for clarification of what Mr. Martzke was referring to, and noted that the item in question was not a change. Mr. Martzke stated he wanted clarification and that the Commission should consider changing it. Mr. Lynch stated that he felt if the Commission followed Mr. Martzke's suggestion then they would never get through the regulations. Mr. Corley asked if Mr. Martzke was referring to raising poultry for personal use or for commercial purposes and offered clarification of how the regulations treated the two. Mr. Martzke then asked about the definition of gravel, giving a number of substances that he felt may be considered gravel. Ms. Wilson explained the engineering and planning definition of gravel, and noted that the only change was the addition of language permitting substances better than gravel to be used. Mr. Martzke disputed the definition and change. Mr. Bemis also asked about and disputed the definition. Ms. Wilson noted that the change in question was intended to make things easier for applicants rather than harder.

Mr. Lynch noted that the Commissioners had the document for two weeks and asked how many questions were submitted to Staff in that time. There being none, Mr. Lynch asked how the Commission wanted to proceed. He suggested the Commission go home and send questions to Staff prior to the next meeting so that they could be addressed before the meeting to prevent trying to "rewrite a several hundred page document on the fly, which is impossible." Mr. Martzke started to ask another specific question, and Mr. Lynch interrupted to emphasize that he did not want specific questions; he wanted a plan to move forward. Ms. Miller stated that "this was the first time we've seen it in written format". Mr. Lynch stated that the document had been coming to the Commission since January. Ms. Miller responded that this was the first time they had seen it as a single document and supported Mr. Lynch's suggestion that the Commissioners prepare questions for Staff in advance. Mr. Lynch protested that this route would require another meeting to answer any questions and felt that the process could take forever. Ms. Miller stated that she felt that "by hurrying it along we may lose some of the clarity." Mr. Lynch then called for a motion to table the item until time uncertain. Mr. Martzke made the motion and Mr. Lynch seconded and called for a vote. The motion passed 4-2.

Motion: Table docket until time uncertain.

Action: Table **Moved by:** Mr. Martzke, **Seconded by:** Mr. Lynch

Vote: Motion passed (**Summary:** Yes = 4, No = 2, Abstain = 0)

Yes: Mr. Bemis, Chairman Lynch, Ms. Miller, and Mr. Martzke

No: Mr. Cervantes, and Ms. Weissler.

CALL TO THE PUBLIC

Chairman Lynch opened the "Call to the Public."

Jack Cook spoke about various matters.

Chairman Lynch closed the "Call to the Public."

PLANNING DIRECTOR'S REPORT

Chairman Lynch then called for the Planning Director's report. Director Beverly Wilson informed the Commission that there were three Special Use dockets and one Special Use Modification for the next meeting. She also informed the Commission that the Board of Supervisors had approved the MDP and rezoning for Inde Motorsports from the previous Commission meeting. She also explained that an appeal of a previous docket was heard.

CALL TO COMMISSIONERS

Mr. Lynch asked regarding absences for the next meeting. Mr. Martzke noted that he would be absent. Mr. Lynch stated that he would work with Staff as to how to address the Regulation docket. Ms. Weissler wondered when the Commission would act on the regulations and stated that she felt that the Commission was failing to do its job and Mr. Lynch agreed.

ADJOURNMENT

Mr. Bemis moved to adjourn, Mr. Cervantes seconded and the meeting was adjourned at 5:01 p.m.

ADDENDUM

A. The following letter was submitted electronically for the record regarding Item 2.

Dist1a@cochise.az.gov

Chairman Lynch, I only have this one email address, but would appreciate if you would provide a copy to all the P & Z committee members at the meeting; I understand Open Meeting Laws do not allow you to forward. I would further request that my letter be read into the record.

I respectfully request that all the current building/zoning regulations be reviewed by the Advisory Board. After their input on the current regulations, then and only then, should they begin reviewing any proposed changes to the building codes....such as imposing City water regulations on rural/county residents.

The Zoning Ordinance is responsible for administering the Building Code, and setting Building Code fees and fines, therefore it seems logical that the Advisory Board would begin with current regulations first; and potentially address whether residents who received fines under current code that was not reviewed by the Advisory Board should be reversed.

I would respectfully request a copy of the bylaws set forth for the Advisory Board and a list of members with contact information.

I am sorry I will miss the upcoming P & Z meeting, but would like my voice to be heard.

Thank you,
Jere Fredenburgh
Sierra Vista AZ 85650